actress the exclusive right to use her picture on posterettes. The defendant thereafter, with the consent of the actress, published and sold posterettes bearing the same picture. *Held*, that an injunction will not be granted. *Pekas* v. *Leslie*, 52 N. Y. L. J. 1864 (N. Y. Sup. Ct.).

For a discussion of the New York statutory right of privacy and the rights involved in the unauthorized use of one's name or picture, see p. 689 of this issue of the REVIEW.

RAILROADS — LIABILITY FOR DAMAGE TO ANIMALS — BREACH OF DUTY TO FENCE. — The defendant railroad was under a prescriptive duty to maintain a fence between its property and the plaintiff's land. By reason of a defect in the fence, the plaintiff's cattle strayed upon the right of way and were killed by a locomotive. *Held*, that the plaintiff may recover. *Titus* v. *Pennsylvania R. Co.*, 92 Atl. 944 (N. J.).

The plaintiff's horse, through the defendant railroad's breach of its statutory duty to maintain a fence, escaped onto the defendant's tracks and was killed by falling off a bridge. *Held*, that the plaintiff may recover. *Davis* v. *Central Vermont Ry. Co.*, 92 Atl. 973 (Vt.).

Under the English common law, and the prevailing view in this country, maintenance of a division fence by one of two adjoining landowners for the prescriptive period subjects him and his successors to a duty to maintain it perpetually. See GALE, EASEMENTS, 8 ed., p. 465; *Binney* v. *The Proprietors of the Lands in Hull*, 5 Pick. (Mass.) 503. *Castner* v. *Riegel*, 54 N. J. L. 498, 24 Atl. 484. But see *contra*, *Wright* v. *Wright*, 21 Conn. 329, 344; *Glidden* v. *Towle*, 31 N. H. 147, 169. Though generally called a "spurious easement," this obligation might more accurately be described as a prescriptive covenant running with the land. A breach of the obligation renders the owner of the servient land liable to the owner of adjoining land for all damage proximately ensuing from the breach. See GALE, EASEMENTS, 8 ed., p. 465; *Lawrence* v. *Jenkins*, L. R. 8 Q. B. 274. Civil liability for violation of a criminal statute imposing affirmative duties is not so sweeping; it exists only where the harm was clearly one which the statute was designed to prevent. See *Gorris* v. *Scott*, L. R. 9 Ex. 125; 27 HARV. L. REV. 317, 335. Accordingly, where a fencing statute expressly allowed recovery for injury caused by "agents, engines or cars" of the railroad, recovery for other kinds of injury was held to be excluded by implication. See *Schertz* v. *Indianapolis, B. & W. Ry. Co.*, 107 Ill. 577. One section of the fencing laws of Vermont contains a similar provision; but another section with a different legislative history, reaffirming the duty to fence, contains no reference to civil liability. VT. PUB. STATS. §§ 4453–6. The decision that a fall from the track was one of the things for which this section permits civil recovery seems sound.

RAILROADS — REGULATION OF RATES — STATE REGULATION: NON-COMPENSATORY RATES FOR PASSENGERS OR PARTICULAR COMMODITIES. — A North Dakota statute fixed maximum intrastate rates for the transportation of coal in carload lots. After the statute had been enforced for over a year, it was shown that on one of the railroads in question the receipts from the transportation of coal under the new rates exceeded the cost of transportation, including actual out-of-pocket expense of moving it together with all fixed or overhead expenses apportionable to such traffic, by only $847. On the other road in question the total receipts under the new rates, while exceeding the out-of-pocket costs of moving the traffic, were some $9,000 to $12,000 less than the total costs including fixed and overhead expenses chargeable to the coal traffic. *Held*, that the statute is unconstitutional. *Northern Pacific Ry. Co.* v. *North Dakota*, U. S. Sup. Ct. Off. Nos. 420, 421 (March 8, 1915).

A West Virginia statute prescribed a maximum rate of two cents a mile for